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November 7, 2007

BY FACSIMILE

Honorable Loretta A. Preska
United States Courthouse
500 Pearl Street, Room 1320
New York, New York 10007
Fax: 212-805-7941

Re: Damaris Cuevas v. City of New York, et al., 07 CV 4169 (LAP)¹

Your Honor:

As the Assistant Corporation Counsel assigned to the defense of the above-referenced civil rights action on behalf of the City of New York, I write to respectfully request that the Court issue an order compelling plaintiff to provide this office with a release pursuant to N.Y.C.P.L. § 160.50 for the unsealing of her underlying arrest and prosecution records by a date certain. Additionally, defendant respectfully requests an extension of time to respond to the complaint until sixty (60) days after plaintiff provides the requested release.

As background, the complaint alleges, *inter alia*, that on May 27, 2004, several unidentified New York City police officers employed excessive force to falsely arrest plaintiff in violation of her state and federal civil rights. On October 10, 2007, this office sent plaintiff a release for the unsealing of her arrest and prosecution records pursuant to N.Y.C.P.L. § 160.50.² Again, on October 23, 2007 this office resent the aforementioned release and notified plaintiff that we would seek an order from the Court compelling the production of the executed release if

¹ This case has been assigned to Assistant Corporation Counsel Katherine E. Smith, who is presently awaiting admission to the bar and is handling this matter under the supervision of ACC Sabrina Tann. Ms. Smith may be reached directly at (212) 513-0462.

² A copy of this office's October 10, 2007 letter is annexed hereto for the Court's convenience.

plaintiff failed to respond on or before October 30, 2007.³ To date, plaintiff has failed to return the executed unsealing release.

This office is expected to file a response on behalf of the City of New York by December 18, 2007. However, without the requested release our office is unable to secure the underlying documentation necessary to adequately investigate plaintiff's allegations, properly respond to the complaint, or comply with our obligations under Fed. R. Civ. P. 11.

Accordingly, for the reasons set forth herein, defendant respectfully requests that the Court order plaintiff to provide the requested unsealing release by a date certain and that defendant City be given sixty (60) days after receipt of the release to respond to the complaint.

I thank Your Honor for considering the within requests.

Respectfully submitted,

Plaintiff shall provide an unsealing release in a form satisfactory to defendant's counsel no later than November 30, 2007. Failure to do so may result in dismissal of the complaint. Defendants' time to respond to the complaint is adjourned until 60 days after defendants' counsel's receipt of such release.

Sabrina Tann (ST 2552)
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Warren S. Goodman
138 Chatsworth Avenue
Larchmont, New York 10538
Fax: 914-833-2848
(By Facsimile)

SO ORDERED

Loretta A. Preska
LORETTA A. PRESKA
DISTRICT JUDGE

November 19, 2007

³ A copy of this office's October 23, 2007 letter is annexed hereto for the Court's convenience.